

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:20 CR 559
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	<u>MEMORANDUM OPINION</u>
DEVONTE FELLOWS,)	<u>AND ORDER</u>
)	
Defendant.)	


This matter comes before the Court upon Defendant, Devonte Fellows’ Motion pursuant to 60(b)(6) for an extension of time in which to file a motion under 28 U.S.C. §2255. (ECF #).

Section 2255 petitions are the exclusive means by which a federal prisoner may collaterally attack a sentence that is alleged to violate federal law. *Davis v. United States*, 417 U.S. 333 (1974); *Cohen v. United States*, 593 F.2d 766, 770 (6th Cir. 1979). The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) requires that § 2255 petitions be filed within one year of the finalization of the conviction. 28 U.S.C. § 2255(f); see also, *In re Hanserd*, 123 F.3d 922, 924, 932 (6th Cir. 1997). The mandate for Mr. Fellows’ appeal was issued on July 11, 2023. The docket does not show that any petition for certiorari was filed with the Supreme Court within the 90 day period following the issuance of the mandate. Therefore, the appeal became final on October 11, 2024, when the time to petition the Supreme Court expired.

Mr. Fellows asserts that he hired an attorney to file a petition under §2255 on his behalf but the attorney did not follow through and filed the petition. He also asserts that he was

prevented from effectively communicating with that attorney between May and July of 2024, or from working on and processing a pro se petition, due to frequent and extended periods of lock down at his institution. Mr. Fellows submitted documentation that substantiates his assertion that he was diligently attempting to communicate with his attorney and pursue his right to file a §2255 petition. (ECF #76-1). He has also submitted a letter from the Bureau of Prisons case manager confirming that from April 7, 2024 to November 25, 2024 institutional lockdowns and restrictions on resources prevented Mr. Fellows from being able to process court documents in a timely manner. (ECF #76-2). Therefore, for good cause shown, an extension of time in which to file his §2255 petition is GRANTED. Mr. Fellows shall have until January 30, 2025 to file a petition under 28 U.S.C. §2255. IT IS SO ORDERED.

DATED: December 17, 2024


DONALD C. NUGENT
United States District Judge